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SUBJECT: ODYSSEY UPDATE: DHS DELIVERS CUSTOMS INFORMATION

REF: MADRID 1670 AND PREVIOUS

¶1. (SBU) On September 6, DHS-ICE Attache delivered the Odyssey Customs import documents to Director of Aduanas Nicolas Bonilla, as requested by GOS via the Customs Mutual Assistance Agreement (CMAA) on July 24. The DHS-ICE Attache advised Bonilla that the information was confidential and to be used only for law enforcement purposes. Bonilla expressed appreciation for the information, and assured the DHS-ICE Attache that it would be used only for official purposes. He added that Aduanas would make a formal request through DHS channels before sharing the documents with any other GOS agency. Post advised MFA representatives of this exchange the afternoon of September 6.

¶2. (SBU) Separately, the MFA sent Post a diplomatic note September 4 in response to the Ambassador's August 29 meeting with Foreign Minister Miguel Angel Moratinos (ref). MFA officials advised us verbally that they will seek the Odyssey information through their Aduanas, acknowledging that Aduanas would first have to seek the necessary permission from DHS. Jorge Domecq, MFA's Deputy Director for Gibraltar Issues, noted that MFA was interested in obtaining the Odyssey customs information to provide to lawyers representing the GOS in the Tampa Admiralty Court.

¶3. (SBU) Meanwhile, the Odyssey Explorer remains docked in Gibraltar and has not yet unloaded its cargo. According to British Embassy representatives, Odyssey representatives have stated that the vessel will begin unloading its cargo the week of September 10.

¶4. (SBU) Below is an informal translation of Foreign Ministry diplomatic note 277/31 dated August 31, which was provided to the Embassy on September 4.

Begin Text:

(complimentary opening)...and has the honor to refer to Embassy Note Verbal No. 445 of 20 August 2007 on obtaining the documents for entry into the United States of the objects of archeological value brought up by the "Odyssey Marine Exploration" from a wreck code-named "Black Swan."

In this regard, the Ministry wishes to reiterate to the Embassy the request made for the above mentioned documents in Note Verbal number 79 of 22 May 2007.

Furthermore, the Ministry seeks to inform the Embassy as follows:

- On 24 July 2007, the Director of the Department of Customs and Excise Taxes of the Tax Agency of Spain sent a letter to the Director of U.S. Customs and Border Protection requesting these documents pursuant to Article X of the Mutual

Assistance Agreement on Customs ("special assistance cases").

A copy of the letter is attached hereto.

-The documents are requested for the Tax Agency of Spain, which is the agency responsible for the enforcement of Spanish and Community customs legislation.

- The documents are requested to investigate the legality and validity of the transfer to the United States of the two shipments of coins and archeological material from Gibraltar referred to in the attached document, and to enforce compliance with all applicable Spanish legislation in this area, take all appropriate judicial action and assert the rights of the Government of Spain in all appropriate legal venues.

- The Spanish Government will approach this matter with the discretion and confidentiality that it applies to all its relations with the U.S. Government...

(Complimentary closing)

End Text.

AGUIRRE